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Reply to Anton Leist. Keeping Constructivism in Its Place

Abstract: Leist worries that by tying the ideal of cooperation to the aim of promoting the good I exhibit a bias towards consequentialism, and that this in turn leads me to downsize the role to be played by the ideal of cooperation within moral theory. I maintain that no bias is exhibited towards consequentialism but acknowledge that realism is being favoured over constructivism. I further argue that the role assigned to the ideal of cooperation is as large as realism permits.

I would like to begin by thanking Anton Leist for his challenging comment on my article. We agree on what I take to be its main point—that a substantive account of cooperation must be central to any satisfactory account of morality’s content. But we evidently disagree in many interesting and important ways on how to develop this idea, and on what its pay-off will ultimately be. I won’t try to settle these differences here, but I would like to make a few clarificatory remarks about why I approach these matters as I do.

1. Realism about Reasons

As Leist notes, much of my work in moral theory has been motivated by the thought that consequentialism and contractualism face similar, and in many ways symmetrical, challenges. Consequentialists, with their focus on promoting value, struggle to accommodate common convictions about individual rights; contractualists, with their focus on securing agreement, struggle to accommodate common convictions about impartial beneficence. My claim has been that we can circumvent these problems, and arrive at a more balanced account of morality’s content, by regarding it as a cooperative undertaking aimed at promoting the good. Leist worries, however, that by tying the ideal of cooperation to the aim of promoting the good I exhibit a bias towards consequentialism, and that this in turn leads me to downsize the role to be played by the ideal of cooperation within moral theory. I reply to the charge of bias in this section, and to the charge of downsizing in *section 2*.

What is true, as I acknowledge in my article, is that for the purposes of this argument I am adopting a kind of realism about reasons for action and allowing that agent-neutral reasons might exist alongside agent-relative ones. I have defended these assumptions elsewhere, arguing along broadly Davidsonian lines that people's desires are best understood as answering to independent reasons, and that these reasons could prove to be both agent-neutral and agent-relative in nature, people's relative reasons emerging as they develop particular histories with things already possessed of neutral value (as when my particular history with someone whose well-being already has neutral value leads it to acquire special value for me) (see Myers 1999, chs. 3 and 4, and Myers 2004). I do not believe this willingness to countenance the possible existence of agent-neutral values constitutes a bias towards consequentialism; but I grant that my predilection for realism does end up closing a door that Leist would rather keep open.

In sorting through these questions, I think it is important to distinguish two kinds of contractualism. On the one hand, there are what we might call realist contractualists. They agree with me that reasons for action are objects of discovery, not construction, though unlike me they typically assume that all reasons are agent-relative in nature. But even if they were to grant that agent-neutral reasons might also exist, their way of trying to explain morality's content would be very different from mine. For they seek to understand moral principles as principles that could be agreed upon by people who were each striving to advance whatever reasons for action they have. So if I can show, as I argue in my article, that certain commonly accepted moral principles cannot be understood to be the products of any such agreement, then I will have shown either that this form of contractualism must be rejected or that the moral principles in question, though perhaps commonly accepted, are not correct.

On the other hand, however, there are what we might call constructivist contractualists. Unlike me, they regard even reasons for action as objects of construction, not discovery. So they do not seek to understand moral principles as principles that could be agreed upon by people who were striving to advance independently delineated reasons for action. For them, reasons for action and principles of morality are all of a piece; they are all to be understood as products of some process of construction. It is therefore open to them to draw a different lesson from my arguments, to see them as revealing inadequacies in the underlying assumptions about reasons for action. Perhaps it is a mistake to think of reasons for action, whether agent-relative or agent-neutral, as considerations with weights that must be balanced against one another. Perhaps we should be articulating a different conception of what reasons for action are, one that would enable common convictions about morality's content to sit more easily together.

Clearly it is the constructivist version of contractualism that Leist favours, and he is right that I do not provide an argument against it in my article.¹ So I am indeed guilty of displaying a kind of bias—though not one for consequentialism as against contractualism, but rather one for realism as against construc-

¹ As this suggests, I believe all the contractualists discussed in my article—including Scanlon—are contractualists of the realist sort.

tivism. As I have indicated, I think the main arguments for realism are to be found, not within moral theory, but within the theory of mind and content—certainly not a discussion that we want to embark on here. What I can say here, however, is that I also share more familiar worries about constructivism—and especially the worry that any constructivism going all the way down, so to speak, will have nothing on which to build and so will prove empty. Thus I worry that Kant's Categorical Imperative is just an empty formalism, and that Rawls's method of wide reflective equilibrium can be used to justify almost anything.

Interestingly, these are worries that Leist himself shares; indeed, it is because he shares these worries that he thinks constructivists should put the ideal of cooperation at the heart of their approach in at least something like the way I recommend. However, whereas I argue that fully moral agents are cooperating to promote the good, understood again in my realist way, and that no activity, regardless of its aim, can count as a cooperative one unless it possesses certain structural features, such as duties to do one's fair share of the work and rights not to be forced to do more, Leist argues, in the spirit of Rawls's *Political Liberalism* (1993), for an approach that is at once less doctrinaire and more radical. We are to allow that cooperation takes many forms and that it determines the good as well as the right. In what follows, I raise a few questions about this suggestion and comment briefly on its relation to my own.

2. Essentialism about Cooperation

My first question is simply this: How far is Leist prepared to go with his naturalism? It is certainly true that different peoples have been known to embrace different conceptions both of the aims and of the requirements of cooperation. So it is possible that constructivists could relativize their account to peoples who share such conceptions, designing their procedures so these shared conceptions of the aims and requirements of cooperation give real substance to their constructions of reasons and morals. But are we really to believe that either reasons or morals are as relative as that? Now of course Leist might reply that these shared conceptions of cooperation are not supposed to dictate the ultimate results of the constructive procedures, but are merely meant to provide these constructive procedures with some real substance to build on. But then my worries about the possible emptiness of these procedures resurface. What assurances do we have that they will yield adequately determinate results?

There is little point in pressing these questions until we hear more from Leist about how he would make the ideal of cooperation central to his constructivist version of contractualism, so let me instead say something more about my approach. As Leist notes, there is an element of essentialism in my account of cooperation, for I argue that no activity, regardless of its aim, can count as a cooperative one unless it includes certain structural features commonly associated with morality. Whether our aim is to promote the good or to grow potatoes, we are not cooperating with one another unless we recognize duties to do our fair share of the work and rights not to be forced to do more. On my approach,

what distinguishes moral activity from other forms of cooperation is simply its aim; it aims to promote not narrower goals that happen to be shared by some few but all that is really of value to anyone.

Now it might be objected that this takes anti-relativism too far. Are we really to suppose that morality's requirements are so impervious to the contingencies of time and place? In response, I would simply note that my account of cooperation, though insisting on these high-level structural features, leaves considerable room for contingencies to operate closer to the ground. As I argue in my article, one would expect promissory obligations and obligations to obey the law to have central and important roles to play in any account of cooperation. Thus it is only to be expected that different people, being bound by different promises and living under different laws, will often find morality requiring them to do different things.²

Indeed, I do not think it would be an exaggeration to say that, in living their lives, people construct the vast majority of the rights and duties that they have. Although our central moral duty is to do our fair share in promoting the good, and our central moral right is not to be forced to do more than that, what this will require and prohibit in practice will depend very much on the particular promises that we and others have made and on what particular laws have been enacted. This is of course not constructivism in the sense that Leist favours, but perhaps it goes some way towards quieting his worry that my approach is too essentialist and intellectualist.

It should also help quiet worries to the effect that, by tying cooperation to the goal of promoting the good, I make it overly instrumental. Leist recognizes that this is not at all my intention, and indeed to the extent that my account is essentialist it can hardly be instrumentalist. Certainly I do not suggest at any point in my article that the requirements of cooperation are straightforwardly determined by the demands of impartial beneficence. On the contrary, I go to some trouble to contrast people's fair shares of the moral undertaking from what I call their full-coordination shares. Still, I do regard the moral undertaking as one that aims to promote the good, and Leist worries that this makes cooperation subservient to beneficence. Surely, however, by allowing cooperation to determine the right even as beneficence determines the good, I am refraining from making either subservient to the other. Moreover, by insisting that cooperation imposes duties to honour promises and to obey the law, both of which will often require actions contrary to beneficence, I keep the aim of promoting the good from looming as large in my account of morality's content as Leist seems to fear it will.

So, while it is perhaps true that I am giving the ideal of cooperation a smaller role to play in moral theory than Leist would, I do not believe I am downsizing its role; I believe I am actually giving it the largest role that realism about reasons permits. No doubt many readers will share Leist's sense that such realism is itself not realistic, perhaps because they doubt normative truths could be properly motivating, perhaps because they doubt such truths could find a place within

² And of course there might be further aspects of cooperation, not canvassed in my article, which would have similar results.

modern metaphysics and epistemology. Again, these are not concerns that I am addressing here.³ All my article tries to show is that anyone who shares my realism about reasons, along with common convictions about individual rights and impartial beneficence, should abandon consequentialism and contractualism and start exploring the idea that morality is a matter of cooperating with others in the promotion of the good—where the concept of cooperation denotes not a formal ideal to be given content through reasoning but a substantive way of engaging with one another, a way of engaging with one another that could have many different aims but that in the case of morality aims at promoting the good.

Bibliography

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³ I discuss motivational doubts about normative truths in Myers forthcoming.